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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Timothy L. Hoopman

Title: Cards for Columnar Card Games

Filed: December 31, 2003

Examiner: Benjamin Layno

Ser. No. 10 / 749,601

Art Unit: 3711

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

This is an amended Appeal Brief for an appeal of the final rejection of the claims of the above application that was mailed from the United States Patent and Trademark Office on January 23, 2006. A Notice of Appeal was mailed on April 21, 2006 with a Pre-Appeal Brief Request for Review. The Pre-Appeal Brief was found unpersuasive of gross errors and an Applicant was invited to submit an Appeal Brief. An Appeal Brief was mailed June 23, 2006 and was found not-compliant. Applicant was given 30 days for 08.31.2006 to file an amended Appeal Brief. It is Applicant's position that there are still clear errors in the Examiner's rejections and that examiner has omitted one or more essential elements needed for prima facie rejections under either 102(b) or 103.

Please find the following:

1. Appeal Brief – 10 pages
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Respectfully submitted,

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APPEAL BRIEF

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I. Real Party in Interest

The real party of interest is Timothy L, Hoopman.

II. Related Appeals and Interferences

A Pre-Appeal Brief Request for Review was timely mailed with a Notice of Appeal by Express Mail on 04-21-2006. A Notice of Panel Decision from Pre-Appeal Brief Review was mailed 05/10/2006 finding that Applicant should proceed to Board of Patent Appeals and Interferences. There are no other prior or pending appeals, judicial proceedings or interferences known to appellant which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claim 1-17 are rejected and claims 18-19 are withdrawn from consideration. Rejections of Claim 1, 2, 8 and 9 are appealed.

IV. Status of Amendments

None were filed.

V. Summary of Claimed Subject Matter

Appellant's invention is for a pack of playing cards for use in columnar games like bridge or solitaire that result in shorter lengths of columns. Specifically, the invention is defined in claim 1 of the utility patent application as a pack of playing cards comprising cards having indicia in judicious placement to lessen both precision of vertical columnar alignment and columnar length over that obtainable with a previously known pack of playing cards. Claims 2-7

claim embodiments with more detailed structures where first indicia lie in corners and second indicia lie horizontally proximate to first indicia with the same reading orientation. Some embodiments of the invention described in Claims 2-7 are shown in Fig. 4-6. Claims 8-17 claim structures where (1) second indicia are in a region extends between two corner first indicia but not including a position proximate the secondary corners, (2) second indicia are in the same reading orientation as horizontally aligned first indicia, and (3) the cards have a central graphic with a split mirror image. Some embodiments of the invention described in Claims 8-17 are shown in Fig. 1, 3.

Claimed subject matter of the claims under appeal is as follows for independent claim 1 and dependent claim 2, 8 and 9.

Claim 1 describes “a pack of playing cards comprising cards having indicia in judicious placement to lessen both precision of vertical columnar alignment and columnar length over that obtainable with a previously known pack of playing cards.” The claimed subject matter is described generally in the Specification on pages 7, lines 15-21. “Indicia” are described on page 11, lines 11-12 and page 17, lines 6-10. “Judicious placement” is described on page 11, lines 16-17, page 17, lines 5-6 and page 17, lines 11-19. “Less precision” is described on page 12, lines 1-7. Less columnar length is described in the specification on page 11, lines 16-20, page 18, line 18 to page 19, line 7, and page 20, line 7 to page 21, line 9, and in Figure 1 and 2; and in the Rule 1.132 affidavit of inventor submitted June 8, 2005 with Response to Examiner’s office action mailed March 10, 2005. Functional effect is described in the specification on page 21, lines 10-20 and in the Rule 1.132 affidavit mentioned above.

Claim 2 describes the playing card pack of claim 1 wherein “the pack comprises a series of cards each having a face and a back, the cards being organized into four suits with thirteen cards in each suit having one of 13 different values, and each face having a top edge, a bottom edge, a left edge and a right edge; (1) the faces on the cards having two diagonally opposing primary corners and two diagonally opposing secondary corners, and first indicia and second indicia in regions that border at least one edge, the second indicia having a height that is similar in length to or less than that of the first indicia, wherein the first indicia denote a characteristic common throughout the series of either a suit or a value and the second indicia denote the

remaining characteristic; (2) the first indicia being in at least a first position and a second position on the faces of the cards in regions proximate the primary corners, the first indicia in the first position being in the region of the primary corner formed by the top edge and the left edge and having a right-reading orientation, and the first indicia in the second position being in region of the primary corner formed by the bottom edge and the right edge and having an upside-down-reading orientation; and (3) the second indicia being in at least a first position and a second position on the faces of the cards, the second indicia in the first position having a right-reading orientation, being **horizontally proximate** to the right-reading first indicia and being in a region bordering the top edge, and the second indicia in the second position having an upside-down-reading orientation, being horizontally proximate to the upside-down-reading first indicia and being in a region bordering the bottom edge.” The general description is found in the Specification on page 18, line 8 to line 15. This subject matter is described in more detail in the specification on page 19, lines 8-12, page 22, lines 17 to 22, and in Figure 4 and the Rule 1.132 affidavit mentioned above.

Claim 8 describes “the playing card pack of claim 1 where the playing cards have a familiar appearance through use of a graphic to denote both value and suit of each card, wherein the graphic is centrally located on each face and wherein the graphic is a grouping if a Spot Card or a picture if a Face Card and the picture has an upper half in a right reading orientation and similar lower half in an upside-down reading orientation such that the graphic looks similar whether seen right-side up or upside down.” The “central graphics” are generally described in the Specification on page 7, line 21-23. “Familiar appearance” is described in the specification on page 17, line 20 to page 18, line 2.

Claim 9 describes “the playing card pack of claim 8 wherein the pack comprises a series of cards each having a face and a back, the cards being organized into four suits with thirteen cards in each suit having one of 13 different values, and each face having a top edge, a bottom edge, a left edge and a right edge; (1) the faces on the cards having two diagonally opposing primary corners and two diagonally opposing secondary corners, and first indicia and second indicia in regions that border at least one edge, the second indicia having a height that is similar in length to or less than that of the first indicia, wherein the first indicia denote a characteristic common throughout the series of either a suit or a value and the second indicia denote the remaining characteristic; (2) the first indicia being in at least a first position and a second

position on the faces of the cards in regions proximate the primary corners, the first indicia in the first position being in the primary corner region formed by the top edge and the left edge and having a right-reading orientation, and the first indicia in the second position being in the primary corner region formed by the bottom edge and the right edge and having an upside-down-reading orientation; and (3) the second indicia being in at least a first position and a second position on the faces of the cards, the second indicia in the first position having a right-reading orientation and being **in a region bordering the top edge and extending to the right of the right-reading first indicia but not within a region proximate to the secondary corner** formed by the top edge and the right edge, and the second indicia in the second position having a upside-down-reading orientation and being in a region bordering the bottom edge and extending to the left of the upside-down-reading first indicia but not within a region proximate to the secondary corner formed by the bottom edge and the left edge.” The general description is found in the Specification on page 8, line 6 to page 9, line 6. This subject matter is described in more detail in the specification on page 18, lines 3 to 7, page 18, lines 18 to page 19, line 7, page 22, line 3 to 16, and Figure 1 and 3.

VI. Grounds of Rejection to be reviewed on Appeal

The grounds of rejection to be reviewed on appeal are whether independent claim 1 and dependent claim 2, 8 and 9 are unpatentable under 35 U.S.C. 102(b) or, in the alternative, under 35 U.S.C. 103 as being anticipated by or obvious over *Stauff*, D181,884. The four arguments used to support the rejection are being reviewed: (1) whether the prior art is “capable” of lessening columnar length, (2) whether “horizontally proximate” is a relative term that can be broadly interpreted to include the prior art, (3) whether elements of the claimed invention that differ from the prior art are un-patentable printable subject matter, and (4) whether there is no novel or unobvious functional relationship between the printed matter and the substrate of the invention.

VII. Argument

Stauff is a design patent that claims cards having an appearance shown in the figures. The figures show cards having first indicia, numbers, located in diagonally opposed primary corners and diagonally opposed secondary corners. The cards further have second indicia, suits vertically proximate primary indicia and second indicia horizontally displaced midway between first indicia. The indicia appear to be oriented in a manner to permit cards laid in rows from left to right or in columns from bottom to top, neither formation used in columnar games such as bridge or solitaire.

A supportable rejection under 35 U.S.C. 102(b) requires that one reference shows all elements of the rejected claims. A supportable rejection under 35 U.S.C. 103 requires that all elements of the claimed invention must be suggested or taught by one or more references. It is the Appellant's position that the Examiner is incorrect in each of these arguments for rejection. Further, it is the Appellant's position that Examiner has omitted at least one necessary element needed for a *prima facie* rejection.

Argument 1 - "Capable"

Examiner states in his last office action of 1-23-2006 that *Stauff* "discloses a pack of playing cards having many of the features recited in claims 1-17. "The first indicia (numerical value) in the primary corners and secondary corners are clearly horizontally aligned with the second indicia (suit) in a region bordering the top edge and bottom edge. The judicious placement of the second indicia (suit)"... "makes the playing cards **capable** of lessening the precision of vertical columnar alignment and columnar length over that obtainable with previously known packs of playing cards."

Stauff being **capable** of permitting less precise and shorter columnar arrangements is insufficient for a rejection under 35 U.S.C. 102(b) or under 35 U.S.C. 103. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil of California*. A *prima facie* case of an obviousness rejection requires that the examiner present evidence that teaches or suggests the claimed invention. This can done only by showing some objective

teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual” to make that change.” *Stauff* is a design patent with no suggestion of changing the claimed designs to render the upper second indicia in a right-reading orientation or of using numbers as second indicia and suits as first indicia, an embodiment of the claimed invention. *Stauff* may be suitable for vertical row alignment but not columnar alignment.

Stauff was what Appellant meant when stated in claim 1 “lessening the precision of vertical columnar alignment and columnar length over that obtainable with previously known packs of playing cards.” *Stauff* was disclosed to the USPTO by Appellant in an Information Disclosure Statement submitted with the application. The precision of columnar alignment and columnar length referred to games like Solitaire and Bridge and similar games where cards are laid out in descending manner in columns as taught in the Specification. In addition, *Stauff* was not similar to the more structured embodiments of Claims 2-7 or 8-17. *Stauff* did not disclose or suggest second indicia horizontally proximate to first indicia, required of claims 2-7 (see discussion regarding “horizontally proximate” below). Also, *Stauff* did not disclose or suggest structures having the three elements of: (1) second indicia in a region extends between two corner first indicia but not including a position proximate the secondary corners (2) second indicia that are in the same reading orientation as horizontally aligned first indicia and (3) a central graphic with a split mirror image. These last two features provide a sense of familiarity that is important in some situations such as, for example, contract bridge tournaments. In other situations, orientation of second indicia is still important. In embodiments where second indicia are numbers, right reading numbers, such as “6” resemble upside-down reading “9.” Thus not all elements are taught or suggested by *Stauff* and both the anticipation and obviousness rejections are improper and should be withdrawn.

Argument 2 - Broad Interpretation of “Horizontally Proximate”

“The examiner takes the position that the term ‘horizontally proximate’ is a relative term that is open to broad interpretation” to allow *Stauff* to anticipate the invention or make it obvious. Thus, although claims 2-7 and Fig 4-6 claim and teach embodiments where the second indicia are proximate to first indicia, Examiner takes the position that the broad interpretation of “horizontally proximate” allows *Stauff* to anticipate the invention or make it obvious.

Claim language is primarily read in light of the specification. *Phillips v. AWH Corp.*, 415 F.3d, 1303 (CAFC, 2005). “The first paragraph of section 112 of the Patent Act, 35 U.S.C. § 112, states that the specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains . . . to make and use the same The second paragraph of section 112 provides that the specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the Appellant regards as his invention. Those two paragraphs of section 112 frame the issue of claim interpretation for us. The second paragraph requires us to look to the language of the claims to determine what ‘the Appellant regards as his invention.’ On the other hand, the first paragraph requires that the specification describe the invention set forth in the claims.” The court states that other means of interpretation, such as general dictionaries, are secondary sources to be used where the specification is unclear or silent.

Appellant’s specification uses proximate and adjacent interchangeably. The specification refers to second indicia in various embodiments claimed specifically in Claim 2-7 as being horizontally “adjacent” to first indicia on page 9, line 14; page 10, line 3; page 12, line 6; page 18, line 9; and page 19, line 12. Some of these embodiments are shown in Fig 4-6. The specification refers to the second indicia for an embodiment specifically claimed in Claim 9-17 as being a **region** between a point adjacent to the first indicia and a point about midway between primary and secondary corners. Claims 9-17 and Fig 1, 3 claim and teach embodiments where the top **region** containing the second indicia (not the second indicia) borders the top edge and extends to the right of the right-reading first indicia but not within a **region proximate** to the secondary corner. Nothing in the claims or specification permits a broad interpretation that is made by the examiner. Thus not all elements are taught or suggested for Claims 2-7 that require the element “horizontally proximate” and this anticipation or obviousness rejection is not proper and should be withdrawn for those claims.

Argument 3 - Un-Patentable Printable Subject Matter

The Examiner also states that *Stauff* differs in (1) right-reading orientation and upside-down-reading orientation of second indicia [as suits], (2) an absence of second indicia

proximately below or above first indicia in secondary corners [claimed in dependent claims 3, 5, 13 & 16], and (3) face cards not having split orientation central graphics that seem similar whether seen right-side up or upside down. However, Examiner holds that these differences reside in the meaning and information conveyed by printed matter and are not considered patentable, citing *In re Breslow*, 192 USPQ 431 (PTOBA, 1975).

The PTOBA in *In re Breslow* held that *Breslow* was unpatentable over *Mitchell*, US 3,565,437 because any differences between the two games resided in the meaning and information conveyed by printed matter and that such differences were not considered patentable differences. The PTOBA found no patentable differences in the *Breslow* structure.

However, holdings by the Court of Appeals, Federal Circuit (CAFC) provide clarification that distinguishes Appellant's invention from *Breslow*. The Court of Customs and Patent Appeals (CCPA) stated in *In re Miller*, 164 USPQ 46 (CCPA 1969) that while printed matter by itself is not patentable subject matter because it is non-statutory, there is no reason for ignoring it when the claim is directed to a combination. In *In re Miller* there was a new and unobvious functional relationship between a measuring receptacle, volumetric indicia thereon indicating volume in a certain ratio to actual volume, and a legend indicating ratio. Its successor court, the Court of Appeals, Federal Circuit, (CAFC) clarified the issue in *In re Gulack*, 217USPQ 405 (CAFC, 1983) by saying that "differences between an invention and prior art cited against it cannot be ignored merely because these differences reside in the content of printed mater," "the claim must be read as a whole," and "where the printed matter is not functionally related to the substrate the printed matter will not distinguish the invention from the prior art in terms of patentability." Examiner appeared to recognize this in part by offering Rejections 1 and 2. However, he was unwilling to see the functional relationship between the differences in the printed matter elements that he acknowledged were there with the manufactured card substrate to view the printed matter differences as patentable distinctive elements.

In *In re Gulack*, the CAFC held that a functional relationship did exist. It found that "a functional relationship of the precise type found by the CCPA in *In re Miller* – to size or type of substrate – is not required." "What is required is the existence of **differences** between the appealed claims and the prior art sufficient to establish patentability. The bare presence or

absence of a specific functional relationship, without further analysis, is not dispositive of obviousness. Rather the critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate.

Thus the issue is whether there is a novel or unobvious functional relationship between the printed matter differences and the substrate. If there are then the printed matter differences are valid elements on which to analyze patentability. Appellant's position is that there is a functional relationship and that the printed matter differences are patentably distinct differences to *Stauff*. Because the printed matter is part of a combination and should be evaluated for patentability, this rejection is not proper and should be withdrawn. This will be addressed in the next section.

Argument 4 - No Novel or Unobvious Functional Relationship Between the Printed Matter and the Substrate of the Invention

Examiner states that, alternatively, the invention is obvious in light of the prior art because there is no novel or unobvious functional relationship between the printed matter and the substrate of the invention. Examiner does not expand on this argument other than to suggest that *Stauff* is capable of being modified to anticipate Appellant's invention and that horizontally proximate, when broadly interpreted, anticipates Appellant's invention. Both of these arguments have been addressed above.

CAFC in *In re Gulack* further states that "the critical question is whether there exists a new and unobvious functional relationship between the printed matter and the substrate." In *In re Gulack*, the new and unobvious relationship was a sequence of numbers having a repetitive order where the numbers were arranged in a continuous loop on a band, e.g., a hat band. Mitchell merely disclosed a display of numbers.

Similarly, Appellant's invention has a new and unobvious functional relationship between the printed elements and the substrates. That combination permits columns of shorter length and columns with less precise columnar alignment than obtained with known decks of playing cards; a result with significant benefits in games like Solitaire when played on small tables as those in an airplane and hospital trays, and Bridge, particularly Contract Bridge where

tables are numerous and smaller than normal (see Specification pages 1-6, 11, 21). Right-reading orientation is essential to solve the problems stated in the Background of the Specification where indicia that are upside-down can be misleading, e.g., “6” & “9” where an embodiment of the invention has second indicia as numbers and the bottom of a heart with the top of a diamond, where an embodiment uses traditional suits as second indicia. Split central graphics provide the card a familiar appearance that is desirable when used for competitive Contract Bridge tournaments (Claim 8 & Specification p 7-8, 17). Also, second indicia horizontally proximate or adjacent to first indicia permit even less precise alignment of columns in the games mentioned while still permitting ready viewing of the values of the cards.

Claim 1 states that the invention is “a pack of playing cards comprising cards having indicia in judicious placement to lessen both precision of **vertical** columnar alignment and columnar length over that obtainable with a previously known pack of playing cards – **including Stauff**. Stauff neither recognizes the problems solved by Appellant’s invention nor offers nor suggests any improvement of playing cards to lessen precision or length over that disclosed, for example, in Fig 1B of the application. As Examiner noted, *Stauff* teaches a second indicia in the first position having an **upside-down-reading** orientation. This would not solve the problem stated by Appellant. Some indicia, such as heart and spades could be confused in a columnar arrangement if different colors were not used. Laying the cards in a column from bottom to top is not an accepted method of playing known card games such as, for example, Solitaire or Bridge. Even in games where it is acceptable, *Stauff* teaches two first indicia horizontally aligned with a second indicia where one is in a right reading orientation and the other is in an upside-down reading orientation; not suitable for games having vertical columns as part of their play but fine for games having horizontally aligned rows as part of their play. In columnar games, such a difference in orientation of first indicia could be confusing where first indicia are numbers such as “6” or “9” during the pressure of tournament play.

If the differences between the prior art and the claimed invention is limited to descriptive material on a substrate, office personnel must determine whether the material is functional descriptive material or nonfunctional descriptive material as described in MPEP 2106 IV.B.1(a) & IV.B.1(b). Office personnel should determine whether the descriptive material is being claimed as part of an otherwise statutory manufacture. In such case, the claim remains statutory

irrespective of the fact that the descriptive material is included in the claim. In contrast, non-descriptive material is that which cannot exhibit any functional interrelationship with the performance of a manufacture. **MPEP 2106 VI**. While this is written primarily for software patent applications, the guidance is relevant here also.

Appellant's position is that the descriptive material in the claims is functional. A claimed manufacture combined with descriptive elements that permit a manufacture's functionality to be realized (1) defines structural and functional interrelationships between the manufacture and the descriptive elements and (2) is thus statutory. In Appellant's case, the printed matter elements have a functional relationship with the article of manufacture, the pack of playing cards. As both stated and claimed, the printed matter elements permit the playing cards to be able to be less precisely vertically aligned and aligned in columns having less length. The advantages of this interrelationship are described through out the specification and include, for example, solutions to the stated needs for (1) a pack of cards to play games that involve displaying cards arranged in at least one column where playing area is limited such as, for example, some variations of Solitaire, and (2) a pack to play games that involves displaying some cards in at least one column and displaying others in a fanned arrangement such as, for example, Bridge. The solutions offered by Appellant's invention result in stated benefits of play, some of which are (1) increased convenience and (2) the ability to play with less frustration in more cramped environments. This is particularly true for competitive Contract Bridge tournaments.

In Appellant's case, the descriptive elements interrelate with the manufacture (the playing cards in the pack) to permit the playing cards to be used in columnar games with less precision of both **vertical** columnar alignment and shorter columnar length over that obtainable with a previously known pack of playing cards. Column length differences are illustrated in Appellant's CFR §1.132 Affidavit of June 8, 2005 that is in the record. This functional interrelationship permits the ability of playing known games but in confined areas not previously possible or possible but only with great difficulty that can cause both physical and mental anxiety. *Functional descriptive material is a patentable limitation in the claim and must be considered and addressed in assessing patentability under 35 U.S.C. 103.*

A rejection of the claim as a whole under 35 U.S.C. 103 is inappropriate unless the functional descriptive material would have been suggested by the prior art. *In re Dembiczak*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (CAFC, 1999). *Stauff* is a design patent claiming what is depicted in the figures. It offers no teaching or suggestion of how to achieve shorter columnar length, particularly in games such as Solitaire or Bridge, or what advantages may be offered under what circumstances. One can surmise that *Stauff* cards are useful in games having horizontally aligned rows but that is a guess. Examiner has offered no additional references to suggest or teach the differences of Appellant's invention that permit shorter and less precisely aligned columns. For reasons stated above, Appellant believes that these differences are patentable distinctive elements because there is a functional relationship between the judicious placement of indicia and the playing cards. *In re Gulack* had the novel result that the sequence of numbers displayed in an infinite array represented solutions to a class of algorithms in as novel and unobvious manner. Similarly, Appellant's judicious placement of indicia on each playing card of a pack of cards permits the novel and unobvious display of the cards in columnar alignment where the columns are advantageously shorter and require less precise alignment than *Stauff* or others known to the art when the application was filed. Thus, because there is a novel and unobvious functional relationship between the printed matter differences and the substrate of the invention, the differences are patentable distinctive elements that are not taught or suggested by *Stauff*, and this rejection is not proper and should be withdrawn.

Conclusions

Because of the above remarks, Applicant respectfully requests that the rejections be withdrawn and present application be allowed.

VIII. Claims Appendix

1. A pack of playing cards comprising cards having indicia in judicious placement to lessen both precision of vertical columnar alignment and columnar length over that obtainable with a previously known pack of playing cards.

2. The playing card pack of claim 1 wherein the pack comprises a series of cards each having a face and a back, the cards being organized into four suits with thirteen cards in each suit having one of 13 different values, and each face having a top edge, a bottom edge, a left edge and a right edge;

the faces on the cards having two diagonally opposing primary corners and two diagonally opposing secondary corners, and first indicia and second indicia in regions that border at least one edge, the second indicia having a height that is similar in length to or less than that of the first indicia, wherein the first indicia denote a characteristic common throughout the series of either a suit or a value and the second indicia denote the remaining characteristic;

the first indicia being in at least a first position and a second position on the faces of the cards in regions proximate the primary corners, the first indicia in the first position being in the region of the primary corner formed by the top edge and the left edge and having a right-reading orientation, and the first indicia in the second position being in region of the primary corner formed by the bottom edge and the right edge and having an upside-down-reading orientation; and

the second indicia being in at least a first position and a second position on the faces of the cards, the second indicia in the first position having a right-reading orientation, being horizontally proximate to the right-reading first indicia and being in a region bordering the top edge, and the second indicia in the second position having an upside-down-reading orientation, being horizontally proximate to the upside-down-reading first indicia and being in a region bordering the bottom edge.

3. The playing card pack of claim 2 wherein the second indicia are further located in a third and fourth position, the second indicia in the third position being proximate to and below the right-reading first indicia in the primary corner, being located in a region bordering the left edge and having a right-reading orientation, and the second indicia in the fourth position being proximate to and above the upside-down-reading first indicia in the primary corner being located in a region bordering the right edge and having an upside-down-reading orientation.

4. The playing card pack of claim 2 wherein the first indicia are further located in a third and fourth position on the face in the regions proximate the secondary corners and the second indicia are further located in a third and fourth position, the first indicia in the third position being in the secondary corner region formed by the top edge and the right edge and having a right-reading orientation, the first indicia in the fourth position having an upside-down-reading orientation in the secondary corner region formed by the bottom edge and the left edge, the second indicia in the third position having a right-reading orientation, being horizontally proximate to the right-reading first indicia in the secondary corner and being in a region bordering the top edge, and the second indicia in the fourth position having an upside-down-

reading orientation, being horizontally proximate to the upside-down-reading first indicia in the secondary corner and being in a region bordering the bottom edge.

5. The playing card pack of claim 4 wherein the second indicia are further located in a fifth, sixth, seventh and eighth position, the second indicia in the fifth position being proximate to and below the right-reading first indicia in the primary corner being in a region bordering the left edge and having a right-reading orientation, the second indicia in the fifth position being proximate to and above the upside-down-reading first indicia in the primary corner, being in a region bordering the right edge and having an upside-down-reading orientation, the second indicia in the seventh position being proximate to and below the right-reading first indicia in the secondary corner, being in a region bordering the right edge and having a right-reading orientation, and the second indicia in the eighth position being proximate to and above the upside-down-reading first indicia in the secondary corner, being in a region bordering the left edge and having an upside-down-reading orientation.

6. The playing card pack of claim 2 wherein the characteristic of the first indicia is a value and the characteristic of the second indicia is a suit.

7. The playing card pack of claim 2 wherein the indicia in regions bordered by at least one edge are enlarged when compared to indicia normally located in and near primary corners of playing cards.

8. The playing card pack of claim 1 where the playing cards have a familiar appearance through use of a graphic to denote both value and suit of each card, wherein the graphic is centrally located on each face and wherein the graphic is a grouping if a Spot Card or a picture if a Face Card and the picture has an upper half in a right reading orientation and similar lower half in an upside-down reading orientation such that the graphic looks similar whether seen right-side up or upside down.

9. The playing card pack of claim 8 wherein the pack comprises a series of cards each having a face and a back, the cards being organized into four suits with thirteen cards in each suit having one of 13 different values, and each face having a top edge, a bottom edge, a left edge and a right edge;

the faces on the cards having two diagonally opposing primary corners and two diagonally opposing secondary corners, and first indicia and second indicia in regions that border at least one edge, the second indicia having a height that is similar in length to or less than that of the first indicia, wherein the first indicia denote a characteristic common throughout the series of either a suit or a value and the second indicia denote the remaining characteristic;

the first indicia being in at least a first position and a second position on the faces of the cards in regions proximate the primary corners, the first indicia in the first position being in the primary corner region formed by the top edge and the left edge and having a right-reading orientation, and the first indicia in the second position being in the primary corner region formed by the bottom edge and the right edge and having an upside-down-reading orientation; and

the second indicia being in at least a first position and a second position on the faces of the cards, the second indicia in the first position having a right-reading orientation and being in a region bordering the top edge and extending to the right of the right-reading first indicia but not within a region proximate to the secondary corner formed by the top edge and the right edge, and the second indicia in the second position having a upside-down-reading orientation and being in a region bordering the bottom edge and extending to the left of the upside-down-reading first indicia but not within a region proximate to the secondary corner formed by the bottom edge and the left edge.

10. The playing card pack of claim 9 wherein the characteristic of the first indicia is a value and the characteristic of the second indicia is a suit.

11. The playing card pack of claim 9 wherein the indicia in regions bordered by at least one edge are enlarged when compared to indicia normally located in and near primary corners of playing cards.

12. The playing card pack of claim 9 wherein the region bordering the top edge extends rightward from a point proximate to the right-reading first indicia to a proximate midpoint between the primary corner and the secondary corner that are bordered by the top edge, and the region bordering the bottom edge extends leftward from a point proximate to the upside-down-reading first indicia to a proximate midpoint between the primary corner and the secondary corner that are bordered by the bottom edge.

13. The playing card pack of claim 9 wherein the second indicia are further located in a third position and a fourth position, the second indicia in the third position being proximate to and below the right-reading first indicia, being in a region bordering the left edge and having a right-reading orientation, and the second indicia in the fourth position being proximate to and above the upside-down-reading first indicia, being in a region bordering the right edge and having an upside-down-reading orientation.

14. The playing card pack of claim 9 wherein the second indicia in the region bordering the top edge is proximate to the right-reading first indicia and the second indicia in the region bordering the bottom edge is proximate to the upside-down-reading first indicia, and wherein the second indicia are further located in a third position and a fourth position, the second indicia in the third position being proximate to and below the right-reading first indicia, being in a region bordering the left edge and having a right-reading orientation, and the second indicia in the fourth position being proximate to and above the upside-down-reading first indicia, being in a region bordering the right edge and having an upside-down-reading orientation.

15. The playing card pack of claim 9 wherein the first indicia are further located in a third and fourth position on the face in the regions proximate the secondary corners, the first indicia in the third position being in the secondary corner region formed by the top edge and the right edge and having a right-reading orientation, and the first indicia in the fourth position having an upside-down-reading orientation in the secondary corner region formed by the bottom edge and the left edge.

16. The playing card pack of claim 15 wherein the second indicia are further located in a third, fourth, fifth and sixth position, the second indicia in the third position being proximate to and below the right-reading first indicia in the primary corner, being in a region bordering the left edge and having a right-reading orientation, the second indicia in the fourth position being proximate to and above the upside-down-reading first indicia in the primary corner, being in a region bordering the right edge and having an upside-down-reading orientation, the second indicia in the fifth position being proximate to and below the right-reading first indicia in the secondary corner, being in a region bordering the right edge and having a right-reading orientation, the second indicia in the sixth position being proximate to and above the upside-down-reading first indicia in the secondary corner, being in a region bordering the left edge and having an upside-down-reading orientation.

17. The playing card pack of claim 16 wherein the second indicia in the region bordering the top edge is proximate to the right-reading first indicia in the primary corner and the second indicia in the region bordering the bottom edge is proximate to the upside-down-reading first indicia in the primary corner, and wherein the second indicia are further located in a seventh and eighth position, the second indicia in the seventh position having a right-reading orientation, being in a region bordering the top edge and being proximate to the first indicia in the third position, and the second indicia in the eighth position having a upside-down-reading orientation, being in a region bordering the bottom edge and being proximate to the first indicia in the fourth position.

18. A method of playing a card game, comprising the steps of,

a. arranging cards of claim 1 in vertically displaced columnar formation where both first indicia and second indicia are visible to a player, and wherein the columns both occupy less vertical displacement and require less precise vertical alignment when compared with cards previously known;

b. moving cards to reform columns having both shorter columnar length and needing less precision in vertical alignment than obtainable with known packs of cards while allowing the player to view both first indicia and second indicia.

c. manipulating cards toward a desired goal while using less playing area than used with previously known packs of playing cards.

19. A method of playing a card game, comprising the steps of,

a. forming four hands in a playing area with the playing card pack of claim 1, wherein the area required for satisfactory playing is less than that needed with cards previously known,

b. arranging the cards of one hand into columns, all cards of the same suit in one column, with cards in each column arranged in a vertically displaced formation where the right-reading first and second indicia of all cards in the columns are visible to the declarer, the columns both having a length that is shorter and a vertical alignment that is less precise than obtainable with cards previously known,

c. arranging the cards of the remaining hands into a fanned arrangement allowing a player to view both the first indicia and the second indicia of all 13 cards while holding the cards in one hand, and

d. playing cards to form a series of tricks until the winner of all tricks is known.

IX. Evidence Appendix

Examiner's sole prior art reference to support his position is *Stauff*, D181,884.

Appellant's evidence is an Affidavit submitted under 37 CFR §1.132 on 06/08/2005 with Response to Office Action mailed 03/10/2005. A copy of the Affidavit follows.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Timothy L. Hoopman	Examiner:	Benjamin Layno
Title:	Cards for Columnar Card Games	Art Unit:	3711
Filed:	December 31, 2003	Attorney Docket Number :	03001
Ser. No.	10 / 749,601	Date:	June 8, 2005

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Affidavit by Timothy L. Hoopman under CFR §1.132

Dear Sir:

This is an affidavit from Applicant to assist the examiner's understanding of the invention by pictorially illustrating an aspect and benefit of the invention. Attached is a picture illustrating three types of playing cards in columnar arrangement. All three use hearts as the suit indicia, include the same number of cards, and include all the value indicia commonly associated with the suit of hearts in traditional packs of playing cards, i.e., A, 2-10, J, Q & K. The cards are vertically aligned in as short a columnar length as possible that still shows the value indicia and suit indicia of each card.

The cards in the left-most first column are traditional playing cards with standard-sized indicia. These cards are commonly used in columnar games such as Bridge and Solitaire. Second (suit) indicia are vertically proximate to first (value) indicia permitting closer arrangement of multiple cards in a fan arrangement when held in one hand or two hands.

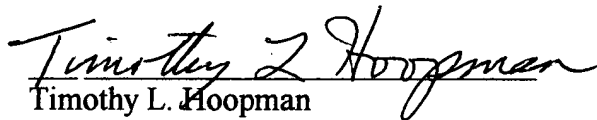
The cards in the right-most third column are enlarged versions of traditional playing cards with enlarged suit and value indicia. These cards are particularly useful to assist viewing the indicia by visually impaired players when playing columnar games. Second (suit) indicia are vertically proximate to first (value) indicia permitting closer arrangement of multiple cards in a fan arrangement when held in one hand.

The cards in the center second column are an embodiment of my invention particularly claimed in Claim 7 and 11. The number indicia and value indicia are sized similarly to those of the third column. In this embodiment, second (suit) indicia are both vertically proximate and horizontally proximate to first (value) indicia permitting closer arrangement of multiple cards in a fan arrangement when held in one hand and less length of columns and less precision in vertical alignment of columns during play of games involving columns, such as, for example, bridge and solitaire.

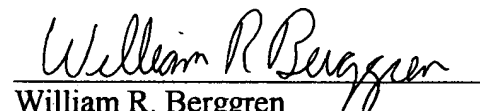
The difference between my invention and cards known to the public is clearly evident. As shown, the length of the column of cards using cards of this embodiment of the invention is substantially shorter than the length of the third column with cards having indicia of approximately the same size. Indeed, the length of the column of an embodiment of my cards with enlarged indicia is significantly shorter than similarly known cards with smaller-sized indicia. Also, the column length of cards of an embodiment having indicia with heights similar to those of the cards in the first column would even less than that of the second column.

This difference is fundamental in arriving at the benefits of my invention. As shown in Figure 1 and 2, card arrangements of games involving columns can have space limitations. My invention permits less precision of placement of cards in a column and result in less length of columns made with similarly valued cards of known placement of value and suit indicia.

Respectfully submitted,


Timothy L. Hoopman
(1) enclosure

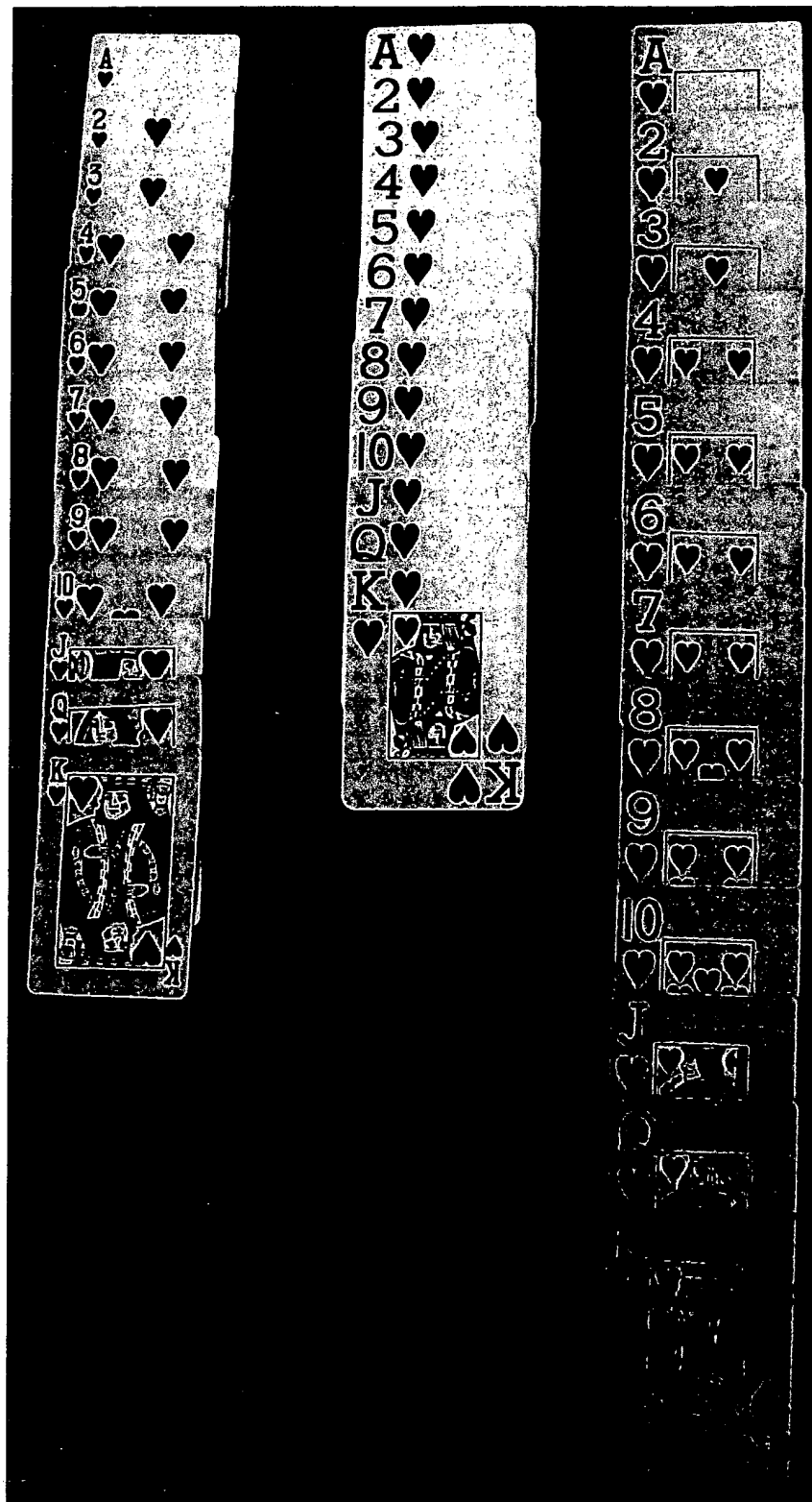
Enclosed with Response paper by attorney, William R. Berggren and mailed with the paper.


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Applicant: Timothy L Hoopman

Ser No 10/749,601



First

Second

Third

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X. Related Proceedings Appendix

None.

XI. Cited Cases & Manual Appendix

Examiner's sole prior art reference to support his position is *Stauff*, D181,884.

Examiner's case law reliance is *Ex parte Breslow*, 192 USPQ 431, (PTOBA, 1975) and *In re Gulack*, 217 USPQ 401, (CAFC 1983).

Appellant's case law reliance is *Verdegaal Bros. v. Union Oil of California*, 814 F.2d.628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); *Phillips v. AWH Corp.*, 415 F.3d, 1303 (CAFC, 2005); *In re Breslow*, 192 USPQ 431 (PTOBA, 1975); *In re Miller*, 164 USPQ 46 (CCPA 1969); *In re Gulack*, 217USPQ 405 (CAFC, 1983); and *In re Dembiczak*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (CAFC, 1999).

Appellant's MPEP reliance is MPEP 2106 IV.B.1(a) & IV.B.1(b), and VI (Ed 8, Rev 3 August 2005).